

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK**

GLESTER ELVEY,

Plaintiff,

against,

**SILVER'S CRUST WEST INDIAN RESTAURANT :
& GRILL INC and CONRAD MCGREGOR,**

Defendants.

: Civil Case No.: 1:18-cv-00126

:

: **DECLARATION IN SUPPORT
: FOR THE ENTRY OF DEFAULT**

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Matthew J. Salimbene, Esq., hereby declares under the penalties of perjury as follows:

1. I am an attorney duly admitted to practice in the State of New York, to the Bar of this Court and the attorney for Plaintiff GLESTER ELVEY.
2. This action was commenced pursuant to Section 16(b) of the FLSA, 29 U.S.C. § 216(b), and the New York Labor Law.
3. On January 16, 2018, Plaintiff served Defendant SILVER'S CRUST WEST INDIAN RESTURANT & GRILL INC d/b/a SILVER KRUST WEST INDIAN RESTAURANT & GRILL INC by serving a copy of the Summons and Complaint under Business Corporation Law § 306 upon the New York State Secretary of State. **(Exhibit 1).**
4. On January 19, 2018, Plaintiff served Defendant CONRAD MCGREGOR by serving a copy of the Summons and Complaint upon CONRAD MCGREGOR personally. **(Exhibit 2).**
5. The time for defendants, SILVER'S CRUST WEST INDIAN RESTAURANT & GRILL INC and CONRAD MCGREGOR, to answer or otherwise move with respect to the complaint herein has expired.
6. Defendants, SILVER'S CRUST WEST INDIAN RESTAURANT & GRILL INC and CONRAD MCGREGOR, have not answered or otherwise moved with respect to the

complaint, and the time for defendants to answer or otherwise move has not been extended.

7. That defendants CONRAD MCGREGOR and SILVER'S CRUST WEST INDIAN RESTAURANT & GRILL INC are not infants or incompetent.
8. That defendants CONRAD MCGREGOR and SILVER'S CRUST WEST INDIAN RESTAURANT & GRILL INC are not presently in the military service of the United States as appears from facts in this litigation.
9. Wherefore, Plaintiff requests judgment on each cause of action.
10. Wherefore, Plaintiff requests that a notation of a default of Defendants SILVER'S CRUST WEST INDIAN RESTURANT & GRILL INC d/b/a SILVER KRUST WEST INDIAN RESTAURANT & GRILL INC and CONRAD MCGREGOR be entered.
11. I declare under penalty of perjury that the foregoing is true and accurate to the best of my knowledge, information and belief.

Dated: New York, New York
July 5, 2018

Respectfully submitted.

Matthew J. Salimbene, P.C.
Attorneys for the Plaintiff(s)

_____/s/_____
Matthew J. Salimbene, Esq.
900 Third Avenue, Suite 1801
New York, New York 10022
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E: MJS@SalimbeneLaw.com

EXHIBIT 1

AFFIDAVIT OF SERVICE THROUGH THE SECRETARY OF STATE

Index # 1:18-cv-00126

Purchased/Filed: January 9, 2018

STATE OF NEW YORK

UNITED STATES DISTRICT COURT

EASTERN DISTRICT

Glester Elvey

Plaintiff

against

Silver's Crust West Indian Restaurant & Grill Inc, et ano.

Defendant

STATE OF NEW YORK
COUNTY OF ALBANY

SS.:

James Perone, being duly sworn, deposes and says: deponent is over the age of eighteen (18) years; that on January 16, 2018, at 3:45pm, at the office of the Secretary of State of the State of New York in the City of Albany, New York deponent served the annexed Summons in a Civil Action and Collective Action Complaint with Civil Cover Sheet

on

Silver's Crust West Indian Restaurant & Grill Inc, the

Defendant in this action, by delivering to and leaving with Sue Zouky, AUTHORIZED AGENT in the Office of the Secretary of State, of the State of New York, personally at the Office of the Secretary of State of the State of New York, 2 true copies thereof and that at the time of making such service, deponent paid said Secretary of State a fee of 40 dollars; That said service was made pursuant to Section 306 Business Corporation Law.

Deponent further says that deponent knew the person so served as aforesaid to be the agent in the Office of the Secretary of State of the State of New York, duly authorized to accept such service on behalf of said defendant.

Description of the person served: Approx. Age: 55 Approx. Wt: 125lbs Approx. Ht: 5'1

Color of skin: White Hair color: Red/Blonde Sex: Female Other: _____

Sworn to before me on this

16th day of January, 2018

SCOTT SCHUSTER
NOTARY PUBLIC, State of New York
NO. 01SC6308636, Albany County
Commission Expires July 28, 2018


James Perone

Attny's File No.

Invoice•Work Order # SP1800520

EXHIBIT 2

Form 2 - AFFIDAVIT OF SERVICE



P811438

Matthew J. Salimbene, P.C. Yansel Ramos
 U S DISTRICT COURT EASTERN DISTRICT STATE OF NEW YORK

GLESTER ELVEY

PLAINTIFF

- vs -

SILVERS CRUST WEST INDIAN RESTAURANT & GRILL INC, ETANO

DEFENDANT

STATE OF NEW YORK, COUNTY OF NEW YORK

:SS:

index No.
 1:18-CV-00126
 Date Filed
 Office No.
 Court Date.

JACQUELINE WOS being duly sworn, deposes and says; I am over 18 years of age, not a party to this action, and reside in the State of New York. That on the 19TH day of JANUARY 2018, 4:36PM at 1606 E 55TH STREET 2ND FL BROOKLYN NY 11234

I served the SUMMONS IN A CIVIL ACTION, COLLECTIVE ACTION COMPLAINT, CIVIL COVER SHEET upon CONRAD MCGREGOR the DEFENDANT therein named by delivering and leaving a true copy or copies of the aforementioned documents with TANZILA AZZAM, CO-HABITANT, a person of suitable age and discretion.

Deponent describes the person served as aforesaid to the best of deponent's ability at the time and circumstances of the service as follows:

SEX: FEMALE COLOR: FAIR HAIR: BLACK

APP.AGE: 37 APP. HT: 5'4 APP. WT: 180

OTHER IDENTIFYING FEATURES

On 01/29/2018 I deposited in the United States mail another true copy of the aforementioned documents properly enclosed and sealed in a post-paid wrapper addressed to the said DEFENDANT at the above address. That being the usual place of abode of the DEFENDANT.

Copy mailed 1st class mail marked personal and confidential not indicating on the outside thereof by return address or otherwise that said notice is from an attorney or concerns an action against the person to be served.

COMMENTS:

That at the time of service, as aforesaid, I asked the person spoken to whether the DEFENDANT was in the military service of the United States Government, or of the State of New York, and received a negative reply. Upon information and belief based upon the conversation and observation as aforesaid I aver that the DEFENDANT is not in the military service, and is not dependent on anyone in the military service of the United States Government or the State of New York, as that term is defined in statutes of the State of New York, or of the Federal Soldiers and Sailors Civilian Relief Act.

Sworn to before me this
 25TH day of JANUARY, 2018

SHAWN D FORBES
 Notary Public, State of New York
 No. 01FO6275296
 Qualified in KINGS COUNTY
 Commission Expires 01/28/2021

JACQUELINE WOS DCA LIC #2034482
 PM Legal, LLC
 75 MAIDEN LANE 11TH FLOOR
 NEW YORK, NY 10038
 Reference No: 3-MJSPC-811438

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